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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 DONALD R. EARL,

10 Plaintiff,

11 v.

12 EXPERIAN INFORMATION
13 SOLUTIONS, INC.,

14 Defendant.

CASE NO. C11-5858BHS

ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT AND MOTION TO
STRIKE

15 This matter comes before the Court on Plaintiff Donald R. Earl's ("Earl") motion
16 for summary judgment (Dkt. 11) and motion to strike Defendant Experian Information
17 Solutions, Inc.'s ("Experian") evidentiary objections (Dkt. 16). The Court has considered
18 the pleadings filed in support of and in opposition to the motion and the remainder of the
19 file and hereby denies the motions for the reasons stated herein.

20 This case arises out of Earl's dispute with a credit report furnished by Experian,
21 which characterizes loans held by Earl as revolving accounts rather than mortgages. *See*
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1 *generally* Dkt. 1. On October 18, 2011, Earl filed the complaint in this action against
2 Experian. Dkt. 1. On November 23, 2011, Earl filed the instant motion for summary
3 judgment. Dkt. 10. The Court concludes that, based on the timing of Earl's motion, the
4 lack of discovery that has taken place in this case, and the declarations filed by Experian
5 in support of its position that it "cannot present facts essential to justify its opposition" to
6 the motion based on lack of discovery, Earl's motion is denied without prejudice to him
7 renewing the motion once discovery has been conducted. *See* Fed. R. Civ. P. 56(d); *see*
8 *also Burlington Northern Santa Fe R.R. Co. v. Sioux Tribes of the Fort Peck Reservation*,
9 323 F.3d 767, 773 (9th Cir. 2003) (noting that the Supreme Court has restated the rule as
10 requiring, rather than merely permitting, discovery "where the non-moving party has not
11 had the opportunity to discover information that is essential to its opposition" (citing
12 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 n.5 (1986)) (internal citations and
13 quotation marks omitted).

14 Because the Court is denying Earl's motion for summary judgment for the reasons
15 unrelated to the evidence objected to by Experian, his motion to strike Experian's
16 evidentiary objections is denied as moot. However, the Court notes that if Experian
17 wishes to object to evidence contained or attached to a motion for summary judgment in
18 the future, it must do so in compliance with Rule 7(g) of the Local Rules of the United
19 States District Court for the Western District of Washington.

1 Therefore, it is hereby **ORDERED** that Earl's motion for summary judgment
2 (Dkt. 10) is **DENIED without prejudice** to renewing the motion as discussed herein and
3 the motion to strike (Dkt. 16) is **DENIED as moot**.

4 Dated this 19th day of February, 2012.

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7 BENJAMIN H. SETTLE
8 United States District Judge
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